

**PLANNING AND ZONING COMMISSION  
MINUTES  
EXECUTIVE SESSION/GENERAL MEETING  
January 13, 2004**

PLACE: Rooms 213 & 206  
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:  
Damanti, Forman, Spain, Bigelow, Kenny

STAFF ATTENDING: Ginsberg

OTHERS ATTENDING: James Murphy, Esq., Town Counsel

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Mr. Damanti read the first agenda item.

**Executive Session to discuss pending litigation.**

Mr. Spain moved to go into Executive Session to discuss pending litigation. That motion was seconded by Mr. Bigelow, and unanimously approved by the Commission. Mr. Spain then moved to have Mr. Murphy join the Planning & Zoning Commission in that Executive Session. That too was seconded by Mr. Bigelow and unanimously approved by the Commission. The Commission then adjourned to Room 213 of Town Hall to meet in Executive Session to discuss pending litigation. In that meeting no decisions were made and no votes were taken.

At 9:10 p.m., the Commission then moved back to Room 206 of Town Hall to resume the General Meeting. Mr. Damanti then read the first agenda item for the General Meeting:

**Land Filling & Regrading Application #111, Park & Recreation Commission, Cherry Lawn Park--120 Brookside Road.** Proposing to fill and regrade to expand Casey Field and perform related site development activities. The Cherry Lawn Park property is on the east side of Brookside Road directly across from its intersection with Overbrook Road, and is shown on Tax Assessor's Map #11 as Lot #31, R-1 Zone.

Mr. Damanti noted that at the Commission's meeting last week (January 6, 2004), a draft Resolution was discussed by Commission members. At that time the Commission wondered about the possibility of shifting the field slightly and wanted to consider further the possibility of preserving more trees. The Commission then reviewed Sheets SE-3 and SP-2 of the submitted plans. Mr. Ginsberg noted that because of the wetlands on two sides of the field, the catalpa tree on the third side of the field, and the existing access to Cherry Lawn Park and a sewer line on one corner of the field, it would be extremely difficult to shift the field without impacting either the wetlands, the trees, or the roadway. Mr. Ginsberg believed that shifting the field was not a feasible option. After some discussion, the Commission then agreed that it would be appropriate to include an additional condition within the Resolution regarding a recommendation on preserving two trees which may be able to be saved. Mr. Spain suggested wording regarding that condition noting that the two trees are a 15 inch hickory in the northeast corner of the field, and an 18 inch maple in the southwest corner of the field. Mr. Kenny made a motion to move the Resolution as modified by the Commission this evening with that one condition to be added as Condition F. Ms. Forman seconded that motion and it was unanimously approved by a vote of 4 to 0 with Mr. Bigelow abstaining because he was not at the Public Hearing on this matter. That resolution reads as follows:

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**PLANNING AND ZONING COMMISSION**  
**ADOPTED RESOLUTION**  
**January 13, 2004**

Application Number: Land Filling & Regrading Application #111

Location & Street Address: Cherry Lawn Park – 120 Brookside Road  
Tax Assessor's Map #11 Lot #31

Name and Address of Applicant: Park and Recreation Commission  
2 Renshaw Road  
Darien, CT 06820

Name and Address of Property Owner: Town of Darien  
2 Renshaw Road  
Darien, CT 06820

Name and Address of Applicant's Representative:	Susan Swiatek	C. Eric Rains
	C/o Town Hall	Wesley Stout Associates
	2 Renshaw Road	96 Main Street
	Darien, CT 06820	New Canaan, CT 06840

Activity Being Applied For: Proposing to fill and regrade to expand Casey Field and perform related site development activities.

Property Location: The Cherry Lawn Park property is on the east side of Brookside Road directly across from its intersection with Overbrook Road.

Zone: R-1 Zone

Date of Public Hearing: November 25, 2003

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: November 13 & 20, 2003

Newspaper: Darien News-Review

Date of Action: January 13, 2004

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:  
January 22, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.

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- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject application is to fill and regrade to expand Casey Field within the 27 +/- acre Cherry Lawn Park and perform related site development activities. In this case, the related site development activities include, but are not limited to: tree removal and replacement; drainage installation; and relocation of an existing sewer line. The existing public park is a permitted principal use in the Residential 1-acre (R-1) Zone. The field is now approximately 220' x 150' feet (including the flat "run off" area beyond the marked boundaries). The application proposes to expand it to 310' x 220'. The proposal involves a cut (removing soil) in the northwest corner, and fill (adding soil) in the east and southeast end of the proposed field.
2. The expansion of Casey Field was specifically recommended in the 1995 Town Plan of Development adopted by the Planning and Zoning Commission as well as in the 1996 Darien Parks, Recreation, and Open Space Plan prepared for/by the Park and Recreation Commission. Thus, this proposal is fully consistent with each of those Plans.
3. The EPC approved this application on September 3, 2003 (EPC #75-2003). That approval is hereby incorporated by reference.
4. There have been some parking concerns at Cherry Lawn Park in the past due to the multiplicity of activities conducted on the site. There are currently 79 parking spaces available within the Park. Very careful planning and scheduling must be considered for this Park and coordinated through the Park and Recreation Department to avoid any future problems or conflicts.
5. At the public hearing on this matter, neighbors mentioned their concerns with parking within the Park. They noted that the expansion of the field may result in additional activities occurring on the field at the same time.
6. Concerns expressed during the Public Hearing included – removal of large trees, activity in close proximity to the wetlands, insufficient parking to accommodate all of the park guests during busy days of activities, and events, expanding the field to the extent that older children or adults could utilize the play field, over intensification of the use of the park, and creating a permanently enlarged field to meet what some people see as a temporary shortage of play fields (while the high school construction project is underway). The management and scheduling of activities at park, along with the choices of who can use the fields and balancing the various resources of park (trees, nature trails, active play fields, parking lots, gardens, playgrounds, wooded areas, the pond, tennis courts, etc.) are decisions left to the expertise of the Park and Recreation Commission. The proposed tree cutting and regrading activities within the regulated

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area around the wetlands is within the jurisdiction of the EPC and they have issued a permit for that work. This jurisdiction of the Planning and Zoning Commission in this case is the adding of soil, removal of soil, adjusting the slope of the land and restabilizing the disturbed portions of the site. The other issues and concerns raised at the hearing are more properly brought by the public to the Park and Recreation Commission.

7. The location and size of the use, the nature and intensity of the proposed cutting, filling and regrading operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
8. The location and nature of the proposed cutting, filling and regrading are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
9. The design, location, and specific details of the proposed work and site development will not adversely affect safety nor increase traffic congestion in the streets, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Land Filling & Regrading Application #111 is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Filling and regrading and related activity shall be in accordance with the following submitted site development plans as required to be modified herein:
  - Cherry Lawn Park Casey Field Improvements by Wesley Stout Associates, dated June 26, 2003, Overall Site Plan, Sheet SE-1; Grading and Drainage Plan, Sheet SE-2; Sediment and Erosion Control Plan, Sheet SE-3; Details, Sheet SE-4.
  - Cherry Lawn Park Casey Field Improvements by Wesley Stout Associates, dated June 26, 2003, Overall Landscape Plan, Sheet SP-1; Landscape Plan, Sheet SP-2; Details, Sheet SP-3.
  - Cross Sections Locations Cherry Lawn Park, by Redniss & Mead, scale 1"=50', dated 6/24/03, and Cross Sections Cherry Lawn Park, by Redniss & Mead, scale 1"=10', dated 6/24/03.
- B. It was noted that on Sheet SP-1, the scale is shown as 1"=20', but is actually 1"=50'. That Sheet shall be revised to reflect the proper scale of 1"=50'.
- C. There has been no lighting proposed for the field, and none is approved. If lighting of any field or play court within the Park is desired in the future, that shall be subject to a Special Permit application under Section 405 of the Darien Zoning Regulations.
- D. The Commission recommends that the Park and Recreation Director continue to monitor the parking situation within the Park. Careful permitting shall occur to minimize parking conflicts. When granted permits to use the Park, the Park and Recreation Director should

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consider the number of activities occurring at once and attempt to space them out, so as to minimize parking and traffic impacts. This shall include leaving adequate time between games occurring on Casey Field.

- E. At this time, there is no proposal to add parking spaces within the Park. If the Park and Recreation believes that additional parking is required or desirable in the future, a separate application to the Planning and Zoning Commission will be necessary. Per the Environmental Protection Commission's September 3, 2003 approval, a referral to that Commission will be required.
- F. To the extent possible, the applicant shall try to save as many trees as possible. In particular, the 15" hickory at the northeast corner of the field, and the 18" maple at the southwest corner of the field, both of which are on the edge of the field with limited grading in those areas (as shown on Sheet SE-3), should be saved if possible.
- G. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- I. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- J. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (January 12, 2005). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plan, as required to be modified herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. All completed requirements and materials, including the filing of a Special Permit form in the Darien Land Records, shall be submitted to the Planning and Zoning Department within 60 days of this action or this approval shall become null and void.

Chairman Damanti read the following agenda item:

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**Preliminary Conservation Subdivision Application #604, Dana Arnold, 45 Phillips Lane.**

Discussion per Section 843 of the Darien Zoning Regulations.

Mr. Ginsberg summarized Section 840 of the Darien Zoning Regulations for the Commission members and noted that a copy of his January 7, 2004 memorandum to Ray Redniss of Redniss & Mead was in the file. Mr. Ginsberg explained that there had been other conservation subdivisions in Town, with one of the more recent ones being the Henderson/Fritts subdivision on Goodwives River Road. Roger Pearson and Ray Redniss introduced themselves and Mr. Redniss explained that the existing lot with the Arnold house on it is an odd shaped lot which is on the curve of Phillips Lane. The existing house is in the middle of the lot and the property now has three curb cuts on Phillips Lane.

Mr. Redniss then presented the various plans which had been prepared. He noted that Preliminary Alternate 3 shows a conventional three lot subdivision for the property. The steep slopes and potential regrading in the rear of the property, a 34 inch oak tree, and drainage which may flow to the rear of the property, are all concerns under the conventional subdivision design. Mr. Redniss then presented Preliminary Conservation Alternate 1, which uses the R-1/5 Zone criteria. That criteria is solely used for the building box, not for the setbacks or lot area. This alternative preserves the existing Arnold house and sets aside 16.8% of the property as open space, more than ½ of which is wetlands. Preliminary Conservation Alternate 2 shows 30% of the property preserved as open space. In this Alternate, the lots fall below the R-1/3 lot size requirements, which is more in keeping with the existing Phillips Lane neighborhood. This alternative also preserves the existing Arnold house.

Preliminary Conservation Alternate 3 shows 27.5% open space and keeps the existing Arnold house. Conservation Alternate 4 also shows the existing house remaining and 22.6% open space. Mr. Redniss believes that Conservation Alternate 2 preserves the most trees. Mr. Spain agreed. Mr. Redniss mentioned that it may be possible to preserve some of the other trees which may be outside of the designated open space area, but may be able to be preserved using a conservation easement. Ms. Forman noted that a large amount of open space may help buffer the adjacent property owners from this proposed subdivision. It was agreed that Preliminary Conservation Alternate 2 also shows the most balanced lot sizes. Mr. Damanti suggested attempting to make the lot sizes consistent with the adjacent properties around it. Mr. Redniss noted that the lot width will be approximately the same. Mr. Kenny summarized by noting that Preliminary Alternate 2 seemed to be the Commission's inclination at this time, with a possible increase in open space by squaring off the back line. Mr. Redniss said that it would be important to have the drainage flow towards Phillips Lane rather than towards the back of the property near the neighbors. Commission members unanimously agreed that Preliminary Conservation Alternate 2 appeared to be the best plan, and some "tweaking" of the open space should be considered to arrive at the best plan possible.

Chairman Damanti read the following agenda item:

**Flood Damage Prevention Application #201, Warren & Kelly Pullen, 140 Holmes Avenue.**

Proposal to construct a two-story addition to the west side of the existing residence and perform related site development activities within a regulated area.

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Mr. Ginsberg then outlined the proposed application to construct an addition to the existing residence. Mr. Cugno and Mr. Pullen were in the audience and available to answer questions. Mr. Ginsberg confirmed that all of the neighbors within 100 feet of the property have "signed off" on the project. The Commission members noted that although a portion of the property is in the flood zone, the property is more than 500 feet away from the Noroton River. On a motion by Mr. Spain, seconded by Mr. Damanti, the Commission then unanimously approved this application.

Chairman Damanti read the following agenda item:

**Discussion of status of property at 273 West Avenue.**

Discussion of property owner's options relative to the existing merged property adjacent to People's Bank. The property is situated on the south side of West Avenue approximately 150 feet west of the intersection of Edgerton Street and West Avenue and is shown on Tax Assessor's Map #75 as Lots #3 and #4, being 273 West Avenue and located in a DC (commercial) Zone.

Mr. Ginsberg summarized Mr. Keating's January 8, 2004 memorandum and the situation regarding 273 West Avenue. The Planning & Zoning Commission members reviewed the ZBA application materials and the zoning maps from the 1950s and 1960s which were submitted as part of those applications materials. Ms. Forman noted that one of the options was to allow People's Bank to expand and the existing house to remain. It was then requested that Mr. Ginsberg get the minutes and decision of the ZBA application to Planning & Zoning Commission members to have them better understand the applicant's request. Mr. Bigelow then suggested reading the old zone change file regarding this area, which may also be helpful to understand the perspective throughout time. Mr. Damanti said that the ZBA application materials for Calendar #84-2003 would also be helpful to Commission members. Mr. Spain suggested checking the recent buffering of the Palmer Supermarket addition to see what impact that had or what the concerns of the area were at that time.

Mr. Damanti noted that if the Gunzel property remains commercial, it would be difficult to put a large commercial building on it, because the property is so small. It was noted that the adjacent People's Bank was constructed sometime between 1976 and 1978. Mr. Damanti summarized by noting that more facts are needed for the Planning & Zoning Commission members to better understand the property and its surroundings, as well as the zoning history throughout time. He asked Mr. Ginsberg to put this matter on the Commission's agenda for a later date, potentially sometime in early February.

A gentleman from across West Avenue then spoke. He said that he was concerned about commercial properties having access onto West Avenue, and the amount of overall growth on West Avenue. He said that the general size of lots in the neighborhood is 50' x 150', and having two small residences on this lot would be in keeping with the overall neighborhood standard.

Chairman Damanti read the following agenda item:

**Discussion of proposed 2004-2005 Planning and Zoning Department budget.**

At 10:45 p.m., Commission members then reviewed the Planning & Zoning Commission budget proposed for 2004-2005. Mr. Damanti noted that he and Mr. Ginsberg had just discussed this request with the PZ&H Committee of the RTM. He mentioned that there is a Consulting Services

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line item which will be used for both the third phase of the three year Town Plan of Conservation & Development, as well as a Parking Regulation Study to occur in late 2004. A total of \$22,500. was set aside for that Parking Regulation Study. Mr. Bigelow noted that there was no total at the bottom of the proposed P&Z Department budget. Mr. Ginsberg said that he would e-mail the total request to Commission members within the next day.

Chairman Damanti read the following agenda item:

**Discussion of 2005 Town Plan of Conservation & Development**

Discussion of tentative schedule of meetings for 2004.

Mr. Ginsberg then referred to a January 9, 2004 memorandum to Commission members outlining a list of tentative meeting dates and topics regarding the Town Plan of Conservation & Development for 2004. He said that many members of the general public were interested in participating in the Town Plan process, and added that it would be extremely helpful so that they could plan their schedules accordingly. Mr. Ginsberg explained that if approved by the Commission, he will be able to post this schedule to the website on the Town Plan page.

The January 26<sup>th</sup> RTM meeting was then mentioned, as Mr. Ginsberg will be participating in an RTM discussion of the Plan. Ms. Forman mentioned that it will use the same format as the League of Women Voters implemented in 2003. The overall group will be divided into smaller groups, each having its own moderator. A number of questions would be discussed. Commission members noted that it would be helpful to have both a mix of general and specific comments, which they hoped that the RTM would forward either to Mr. Ginsberg or to the Commission. Mr. Damanti noted that the Planning & Zoning Commission has taken steps beyond that relative to public input meeting with specific groups on specific chapters of the Plan. For example, the Commission met with Historical Society representatives to discuss the historic resources chapter; they met with Environmental Protection Commission members to discuss the environmental resources chapter. Mr. Damanti then noted that on March 9<sup>th</sup>, the Commission will meet with the Park & Recreation Commission and the Park & Recreation Committee of the RTM to discuss parks, recreation and open space. Mr. Damanti explained that it is important to have a Town Plan that is clear and has direction. Mr. Spain emphasized that the Town Plan will have 10 or more chapters, and that it is important to have comments which are related to the Town Plan and land use. Although people may have excellent ideas, Mr. Spain cautioned that not all of them may be appropriate for the Town Plan. He noted that issues such as how to operate a school or software systems to buy are not really land use related, but may be worthwhile suggestions regardless. Mr. Kenny suggested that Mr. Ginsberg use the recent State of the Town Address prepared by Mr. Damanti as a guideline for his January 26<sup>th</sup> meeting with RTM members.

Chairman Damanti read the following agenda item:

**Discussion of Noroton Heights Train Station.**

Mr. Ginsberg noted that this item had been pulled from this agenda as First Selectwoman Evonne Klein wanted to hear first-hand the Commission's thoughts on this project. Mr. Kenny explained that SWRPA is currently doing a study related to the Noroton Heights train station and other train stations in the area. He noted that he was on the committee which is participating in that study. He



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expected that the study should be ready in a few months, and they will be doing some surveying of commuters as part of it.

**Any Other Business (requires two-thirds vote of Commission).**

Mr. Ginsberg asked that the Commission go into other business to discuss two items: Schneider, 12 Contentment Island Road; and the Grove Street Plaza project. A motion to do so was made by Mr. Spain, seconded by Mr. Bigelow and unanimously approved.

Schneider project at 12 Contentment Island Road

Mr. Ginsberg then explained the Schneider project at 12 Contentment Island Road. He mentioned that although P&Z's original approval noted that no trees or vegetation shall be removed, the property owner has now asked that a number of trees and other vegetation be removed for a variety of reasons. Mr. Ginsberg referred to a recent letter received from the landscape architect regarding this project. After some discussion, it was agreed that Mr. Kenny and Mr. Conze would meet out in the field with Mr. Keating before the end of January to ascertain that the request was appropriate.

Grove Street Plaza Project

Mr. Ginsberg said that he had recently spoken to Penny Glassmeyer who is constructing the Grove Street Plaza project – two commercial buildings on the north side of Grove Street. He said that one idea that Ms. Glassmeyer recently had was to construct the “Suites at Grove Street Plaza,” which would be similar to the Inn at National Hall in Westport. This would consist of approximately 12 high end hotel suites on the second and or third floors of the buildings, and an upscale restaurant on the first floor and possibly small convenience area and business center also on the first floor of the building. Commission members generally agreed that this seemed to be a unique idea with some merit, although they were concerned that it may not be the highest and best use of the property. They noted that there was a general feeling that retail on the first floor of the buildings may be more beneficial than high end suites which would not be used all the time and may not generate additional business for the downtown area. There was also some concern about the type of kitchen to be installed in each suite. Commission members instructed Mr. Ginsberg to continue to work with Ms. Glassmeyer and see if she wishes to pursue the project. If she does, they are willing to discuss the potential for changing the zoning regulations to allow hotels, motels and inns of less than 5 acres within the CBD Zone. However, they wish to make sure that the project is likely to proceed, as they are hesitant to change the zoning if the project will not proceed. Mr. Ginsberg said that he would speak with Ms. Glassmeyer in the near future and keep Commission members informed.

There being no other business, the meeting was then adjourned at 11:45 p.m.

Respectfully submitted,

Jeremy B. Ginsberg  
Planning & Zoning Director